

Norbert Dee  
Director, Environment & Safety



National Petrochemical & Refiners Association

1899 L Street, NW  
Suite 1000  
Washington, DC  
20036.3896

202.457.0480 voice  
202.457.0486 fax  
NDee@nptra.org

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EPA Docket Center (Air Docket)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Av, NW  
Washington, DC 20460  
Attention Docket ID No. OAR 2004-0094  
*Submitted through EDOCKET*

**Subject: Comments by the National Petrochemical & Refiners Association (NPRA) on the proposal  
“National Emission Standards for Hazardous Air Pollutants; General Provisions; Proposed Rule”  
Published in the *Federal Register* on July 29, 2005 (70 FR 43992).**

NPRA, the National Petrochemical & Refiners Association, is pleased to provide comments on EPA’s Notice of Reconsideration of final rule, pertaining to clarifications on the purpose of startup, shutdown and malfunction (SSM) plans under National Emission Standards for Hazardous Air Pollutants (NESHAP), and their public availability. NPRA’s petrochemical and petroleum refining members are operators of sources of emissions which are regulated under a variety of NESHAPs and thus would be directly affected by the proposed reconsideration of the final rule.

NPRA is a national trade association representing more than 450 companies, including virtually all US refiners and petrochemical manufacturers. Our members supply consumers with a wide variety of products and services that are used daily in homes and businesses. These products include gasoline, diesel fuel, home-heating oil, jet fuel, asphalt products, and the chemicals that serve as “building blocks” in making plastics, clothing, medicine and computers.

In this reconsideration proposal, the Agency is opening, for additional comment, issues arising from the final amendments of May 30, 2003, regarding SSM plans. NPRA is affirming its general support both 1) for EPA’s original position that SSM plans be made available only upon request of the regulating authority, and 2) EPA’s position under this reconsideration that SSM plans are not applicable requirements, and thus not a compliance plan that sources are obligated to follow under all circumstances. NPRA’s comments are intended to provide additional information and support for EPA’s proposed rule for those sections that are open for reconsideration. NPRA is also submitting more detailed comments as part of an industry coalition.

**NPRA Supports EPA's proposal that SSM plans should be submitted to the permitting authority only upon request, under authority of section 114(a) of the Clean Air Act.**

Due to the complexity of refinery and petrochemical operations, the presence of Confidential Business Information, (CBI), and the multitude of plans and procedures that must be referenced to adequately address startup, shutdown, and malfunction scenarios, it is infeasible to provide meaningful plans to the agency without incurring a significant paperwork burden for both industry and the permitting authority. EPA's final amendments published May 30, 2003, recognized this difficulty and subsequently codified the rule such that this information was to be made available only upon request by the permitting authority. NPRA continues to support EPA's decision as the proper balance between significant regulatory burden and the agency's and general public's right to review this information.

**NPRA supports EPA's proposed clarification that the applicable requirement is the general duty to minimize emissions, and that there is no requirement to follow the SSM plan during all periods of startup, shutdown and malfunction.**

EPA's proposed action "to clarify and emphasize that the applicable requirement is the general duty to minimize emissions and not the specifics in the SSM plan itself" is strongly supported by NPRA. The definition of "applicable requirement" under Title V continues to be a point of contention for industry; therefore, the proposed clarification provides much needed guidance as to what is considered the applicable requirement for SSM plans. This proposal relieves the regulated community of the restriction to employ the SSM plan as the primary means to show compliance with the general duty clause, and instead relegates it to just one of the many tools industry should have the flexibility of employing when minimizing emissions during SSM periods.

Industry must still prepare a SSM plan, and as EPA has stated, it will continue to be a useful tool to the industry in anticipating and minimizing emissions per the general duty clause.

**NPRA supports EPA's interpretation that the SSM plan is not an applicable requirement and thus should not be incorporated into a source's Title V permit.**

NPRA strongly supports this proposal as the solution to a myriad of implementation problems, both operationally and regulatorily under Title V. From an operations standpoint, having the contents of the SSM plan listed as applicable requirements of the Title V permit artificially constrains operations to the contents of the plan, even in situations where greater flexibility during SSM events would achieve safer or more environmentally beneficial results. Under Title V, attempting to document the universe of operational actions

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to address instances of SSM is a tremendous regulatory burden. EPA's proposal provides the foundation necessary to craft workable SSM plans without constraining their flexibility under Title V.

**NPRA supports EPA's decision that facility SSM plans should be made available to the public only if EPA or another authorized permitting authority has obtained them according to section 114 of the Clean Air Act.**

Startup, Shutdown and Malfunction plans contain sensitive information that is not intended for general or public release. In addition, since they are technical in nature, their review requires some level of expertise and familiarity with the facility; therefore, release to the general public would not lead to an understanding of the best operating procedures, or contribute to the management of the facility. Further, publication of the SSM plans may actually result in greater risk to the public by potentially putting sensitive information on security in the wrong hands.

Sincerely,

Norbert Dee, Ph.D.  
Director Environment & Safety